

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Paul Singleton,

Plaintiff,

vs.

Precious Abram,

Defendant.

2:24-cv-00235-APG-MDC

Order

Application to proceed in forma pauperis (ECF No. 1)

Pro se plaintiff Paul Singleton filed an *application to proceed in forma pauperis* (IFP). ECF No.

1. The Court denies Singleton's IFP application without prejudice.

DISCUSSION

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action “without prepayment of fees or security thereof” if the plaintiff submits a financial affidavit that demonstrates the plaintiff “is unable to pay such fees or give security therefor.” The Ninth Circuit has recognized that “there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status.” *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The applicant's affidavit must state the facts regarding the individual's poverty “with some particularity, definiteness and certainty.” *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed

1 in forma pauperis. See, e.g., *Marin v. Hahn*, 271 Fed.Appx. 578 (9th Cir. 2008) (finding that the district
 2 court did not abuse its discretion by denying the plaintiff's request to proceed IFP because he "failed to
 3 verify his poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's
 4 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16cv00768 AJB (BLM), 2016 U.S. Dist.
 5 LEXIS 192145, at 1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient grounds in
 6 themselves for denying an in forma pauperis application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441, 443-
 7 44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on in forma
 8 pauperis application).

9 The District of Nevada has adopted three types of IFP applications: a "Prisoner Form" for
 10 incarcerated persons and a "Short Form" (AO 240) and "Long Form" (AO 239) for non-incarcerated
 11 persons. The Long Form requires more detailed information than the Short Form. The court typically
 12 does not order an applicant to submit the Long Form unless the Short Form is inadequate, or it appears
 13 that the plaintiff is concealing information about his income for determining whether the applicant
 14 qualifies for IFP status. When an applicant is specifically ordered to submit the Long Form, the correct
 15 form must be submitted, and the applicant must provide all the information requested in the Long Form
 16 so that the court is able to make a fact finding regarding the applicant's financial status. See e.g. *Greco v.*
 17 *NYE Cty. Dist. Jude Robert Lane*, No. 215CV01370MMDPAL, 2016 WL 7493981, at 3 (D. Nev. Nov.
 18 9, 2016), report and recommendation adopted sub nom. *Greco v. Lake*, No. 215CV001370MMDPAL,
 19 2016 WL 7493963 (D. Nev. Dec. 30, 2016). Federal Rules of Civil Procedure Rule 10(a) commands that
 21 the title of every complaint must name all the parties. "The normal presumption in litigation is that
 22 parties must use their real names." *Doe v. Kamehameha Sch./Bernice Pauahi Bishop Est.*, 596 F.3d
 23 1036, 1042 (9th Cir. 2010).

24 The Court previously denied plaintiff's IFP application in his earlier filed case against the same
 25

1 defendant. See *Singleton v. Abram*, 2:23-cv-01560-JAD-VCF, ECF No. 3. The Court found that the
2 plaintiff's IFP application was incomplete and ordered the plaintiff to file the long form. *Id.* The Court
3 closed plaintiff's prior case because he (1) resubmitted the short form and (2) the short form was still
4 incomplete. ECF No. 6.

5 Singleton has now refiled the same case, and he has (1) refiled the short form again and (2) the
6 short form is still incomplete. ECF No. 1. Plaintiff left questions one and two blank. In response to
7 questions four, five, six, and eight he wrote "N/A" (non-applicable) with no explanation. In response to
8 question seven, he states that he supports his son and spouse, but he did not state how much he
9 contributes to their support. Plaintiff's application is sparse. The Court finds that plaintiff's IFP
10 application is incomplete, so it cannot determine if plaintiff qualifies for IFP status. The Court will allow
11 plaintiff another opportunity to show that he qualifies for IFP status. Plaintiff must resubmit the long
12 form application. Plaintiff must answer all questions on the long form with detailed explanations about
13 his income and expenses. Plaintiff cannot leave any questions blank or respond "N/A" without an
14 explanation.
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16 **IT IS SO ORDERED** that:

- 17 1. Plaintiff's *application to proceed in forma pauperis* (ECF No. 1) is DENIED without prejudice.
18 2. By **Wednesday, April 3, 2024**, plaintiff shall either (1) file the long form application to proceed
19 in forma pauperis as specified in the Court's order or (2) plaintiff must pay the full fee for filing
20 a civil action.
21 3. Failure to timely comply with this Order may result in a recommendation that this case be
22 dismissed with prejudice.
23

24 **NOTICE**

25 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and

1 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
2 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
3 may determine that an appeal has been waived due to the failure to file objections within the specified
4 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
5 objections within the specified time and (2) failure to properly address and brief the objectionable issues
6 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
7 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
8 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, plaintiffs must immediately file written
9 notification with the court of any change of address. The notification must include proof of service upon
10 each opposing party's attorney, or upon the opposing party if the party is unrepresented by counsel.

11 **Failure to comply with this rule may result in dismissal of the action.**

12 IT IS SO ORDERED.

13 DATED this 4th day of March 2024.

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16 
17 Maximiliano D. Couvillier III
18 United States Magistrate Judge
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